

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re W.R. Grace & Company, et al.)	
)	
State of New Jersey, Department of)	Civil Action No. 07-536
Environmental Protection,)	
Appellant,)	
v.)	Bankruptcy Case No. 01-01139
)	Appeal Number 07-86
W. R. Grace & Co.,)	
Appellee.)	
)	

MOTION SEEKING ORDER TO ENLARGE THE TIME FOR FILING BRIEF

The State of New Jersey, Department of Environmental Protection, hereby moves before the District Court for the District of Delaware for an extension of time from September 27, 2007, through and including November 6, 2007, within which the Attorney General may file a brief on behalf of the State, appellant in the above captioned appeal. The enlargement of time is necessary for the following reasons:

On August 2, 2007, the Bankruptcy Court (Hon. Judith K. Fitzgerald, U.S.B.J.), entered an order denying the State's motion to file a late proof of claim in W. R. Grace's bankruptcy case.

On August 10, 2007, the State filed its Notice of Appeal.

On August 17, 2007, the State filed its Designation of Items to Be Included in the Record on Appeal and its Statement of Issues on Appeal.

On August 27, 2007, Appellee filed its Designation of Additional Items for Inclusion in Record of Appeal.

On or about August 28, 2007, the undersigned attorney for the State called the District Court Clerk's office to ask if the appeal had been docketed yet and if there were a briefing schedule.

The person with whom the undersigned attorney spoke told her that the Bankruptcy Court had not brought the record to the District Court yet and therefore the case had not been docketed. He said that the Appellant would be notified as soon as it was and that the Appellee and Appellant would have the opportunity of working out a briefing schedule together.

On Friday, September 28, the undersigned attorney was informed by W.R. Grace's New Jersey counsel that the State's brief had been due the day before, on September 27.

Counsel for the Appellant called the District Court Clerk's office and was directed to Brian Blackwell. He was so wonderfully compassionate and helpful and assured counsel that there was no record in the office of the Appellant having been notified of the docketing or of the due date of the brief.

Mr. Blackwell suggested that counsel for the Appellant call the attorneys for the Appellees and ask them to stipulate to a briefing schedule with Appellant, file it, and that would be that.

However, the undersigned had trouble getting these attorneys to return her telephone calls and when they finally did, they would not agree to a stipulation, insisting that there was no authority for them to agree to such a stipulation after the date that the brief was due. It did no good to tell them that these were Mr. Blackwell's instructions.


Therefore, we are filing this motion to enlarge the time for filing this brief.

I thank Your Honor for your consideration in this matter.

Respectfully submitted,

ANNE MILGRAM
Attorney General of New Jersey

Date: October 4, 2007

By 
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/S/ Stuart B. Drowos
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ORDER ENLARGING THE TIME TO FILE APPELLATE BRIEFS

This matter having come before the Court on motion by Anne Milgram, Attorney General of New Jersey, by Rachel Jeanne Lehr, Deputy Attorney General appearing, on behalf of Appellant, State of New Jersey, New Jersey Department of Environmental Protection, and the Court having reviewed the State's motion;

IT IS on this day of October 2007 ;

ORDERED that the time that the Appellant's brief is due shall be November 6, 2007;

and

IT IS FURTHER ORDERED that the Appellee's Response Brief and the Appellant's Reply Brief will proceed according to the Rules;

IT IS FURTHER ORDERED that within _____ days of this date, the Appellant's attorney shall serve Appellee's attorney with a true and correct copy of this Order.

Honorable Ronald L. Buckwalter, U.S.D.J.

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CERTIFICATION OF SERVICE

I, **RACHEL JEANNE LEHR**, being of full age, declare as follows:

1. I am a deputy attorney general employed by the State of New Jersey, Department of Law and Public Safety, Division of Law.
2. On October 4, 2007, I caused to be mailed overnight mail a motion, an order and this declaration of service to:

Janet S. Baer, Esquire
Kirkland & Ellis
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Anthony J. Marchetta, Esquire
Day Pitney, LLC
200 Campus Drive
Florham Park, New Jersey 07932

I declare under penalty of perjury that the foregoing is true and correct.


Rachel Jeanne Lehr

Dated: October 4, 2007